

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FRISCO SKY, LLC, FRISCO SUN, LLC, §
AND FRISCO MOON, LLC §

Plaintiff, §

vs. §

VERIZON BUSINESS NETWORK §
SERVICES, INC., VERIZON WIRELESS §
SERVICES, LLC, AND ERVIN CABLE §
CONSTRUCTION, LLC §

Defendant. §

C.A. No. _____
(JURY DEMANDED)

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332 and 1441(a), Defendant ERVIN CABLE CONSTRUCTION, LLC (“Ervin Cable”) hereby gives notice that the action styled *Frisco Sky, LLC, Frisco Sun, LLC, and Frisco Moon, LLC Plaintiffs, v. Verizon Business Network Services, Inc., Verizon Wireless Services, LLC, and Ervin Cable Construction, LLC, Defendants*, Cause No. 471-03380-2020, in the 471st Judicial District of Collin County, Texas is hereby removed to the United States District Court for the Eastern District of Texas, Sherman Division. In support of removal, the Defendant would show the Court as follows:

I.

Texas State Court Action

1. On or about July 14, 2020, Plaintiffs Frisco Sky, LLC, Frisco Sun, LLC, and Frisco Moon, LLC (collectively “Frisco Plaintiffs”) filed an action in the 471st Judicial District Court of Collin County, Texas, styled *Frisco Sky, LLC, Frisco Sun, LLC, and Frisco Moon, LLC*

Plaintiffs, v. Verizon Business Network Services, Inc., Verizon Wireless Services, LLC, and Ervin Cable Construction, LLC, Defendants, Cause No. 471-03380-2020 (the “Texas State Court Action”), against Defendants, asserting causes of action for alleged trespass to land, alleged common law fraud, alleged tortious interference with the existing contracts, alleged conspiracy to commit trespass, fraud and tortious interference, and alleged unjust enrichment. Frisco Plaintiffs seek actual damages, exemplary damages, and attorney’s fees and seek monetary relief over \$1 Million under Texas Rule of Civil Procedure 47(c) (4). Plaintiff’s First Amended Petition and Request for Disclosures, also filed on or about July 14, 2020, in the state court action was served on July 23, 2020.

II.

Jurisdictional Basis for Removal

2. Plaintiffs Frisco Sky, LLC, Frisco Sun, LLC and Frisco Moon, LLC are Texas Limited Liability Companies incorporated in the State of Texas with their principal place of business in Frisco, Collin County or Dallas, Dallas County, Texas.

3. Defendant, Ervin Cable, is a limited liability company organized and incorporated in the State of Delaware with its principal place of business in Sturgis, Kentucky for purposes of diversity of citizenship.

4. Defendant Verizon Business Network Services, Inc. now Verizon Business Network Services, LLC, is incorporated and organized in the State of Delaware and has its principal place of business in Basking Ridge, New Jersey for purposes of diversity of citizenship.

5. Defendant Verizon Wireless Services, LLC is organized and incorporated in the State of Delaware and has its principal place of business in Basking Ridge, New Jersey for purposes of diversity of citizenship.

6. Accordingly, all Defendants are now and were at the time of the action was commenced diverse in citizenship from all Plaintiffs

7. Plaintiffs specifically state that they “seek monetary relief over \$1 Million under Texas Rule of Civil Procedure 47(c) (4). Therefore, the amount in controversy is in excess of \$75,000.00.

8. Removal of this action is therefore proper under 28 U.S.C. § 1441 and § 1446, since it is a civil action brought in a state court and the federal district courts have original jurisdiction of the subject matter under 28 U.S.C. § 1332 because all Plaintiffs and all Defendants are diverse in citizenship and the amount in controversy as alleged by Plaintiffs exceeds, exclusive of interest and costs, the sum of \$75,000.

III.

Venue is proper in This Court

9. United States District Court for the Eastern District of Texas, Sherman Division, embraces Collin County in which the Texas State Court Action was filed. Accordingly, this case is properly removed to this Court under § 28 U.S.C. § 1446(a).

IV.

Removal is Timely

10. Plaintiffs Original and First Amended Petitions were filed on July 14, 2020. Plaintiffs’ First Amended Petition and Request for Disclosure was served on Ervin Cable on July 23, 2020.

Therefore, this Notice of Removal is filed within 30 days of Defendant Ervin Cable's first receipt, through service, or otherwise, of a copy of the initial pleading setting forth the claims for relief upon which such action or proceeding is based. 28 U.S.C. § 1446(b) (1). Accordingly, Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

V.

Other Matters

11. Written notice of the filing of this Notice of Removal will be given to all adverse parties, as required by the provisions of 28 U.S.C. § 1446(d).
12. A true and correct copy of this Notice of Removal will be filed with the District Clerk for the 471st Judicial District Court of Collin County, Texas, as required by the provisions of 28 U.S.C. § 1446(d).
13. No responsive pleadings have been filed by Ervin Cable in the State Court Action and Ervin Cable will file its answer to Plaintiffs' First Amended Original Petition with this Court in compliance with Fed. R. Civ. P. 81(c).
14. Pursuant to 28 U.S.C. § 1446(a) and local Rule 81, copies of all process, pleadings, and Orders signed by the State Judge, if any, a copy of the docket sheet, and a complete list of all counsel of record together with an index of such documents are attached hereto as Exhibit A.
15. Defendants Verizon Business Network Services, LLC, incorrectly named Verizon Business Network Services, Inc., and Verizon Wireless Services, LLC consent to this removal and join in same.

WHEREFORE, PREMISES CONSIDERED, Defendant, Ervin Cable Construction, LLC, hereby removes this action to the United States District Court for the Eastern District of Texas, Sherman Division, and for such other and further relief to which Defendant shows itself justly entitled.

Respectfully submitted,

Taylor, Book, Allen & Morris, LLP

/S/ Mike Morris

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Attorney for Ervin Cable Construction, LLC

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing document has been forwarded by e-mail to Plaintiff and electronically filed on this 15th day of August, 2020.

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/S/ Mike Morris
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